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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
U. S. GYPSUM COMPANY,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 303

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$250.00 civil penalty for an alleged particulant emission violation of respondent's Regulation 1, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer) in the Board's office at Lacey, Washington at 1:30 p.m., May 24, 1973.

Appellant appeared through Lyman W. Hull, respondent through Keith D. McGoffin. Irene Dahlgren, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Seven exhibits were admitted. Closing arguments were made and counsel filed post-hearing briefs.

1 From testimony and arguments heard, exhibits examined, and briefs
2 and transcript reviewed, the Pollution Control Hearings Board makes these

3 FINDINGS OF FACT

4 I.

5 Appellant operates an insulation manufacturing plant at 2301 Taylor
6 Avenue, Tacoma, Pierce County. From melted mineral slag, it produces
7 glassy fibrous particles which are coagulated into a blanket on a
8 conveyor belt system. Various guards along the belt normally keep
9 loose fibers from escaping the collection chamber.

10 In early February, 1973, appellant's plant had two conveyor belts,
11 a deactivated older one 60 inches wide and a more modern active one
12 90 inches wide.

13 On February 17, 1973, because of an increased demand for insulation
14 products, appellant decided to activate the older 60-inch conveyor belt.
15 During the morning and early hours of the afternoon, the older conveyor
16 operated without incident. But about 4:00 p.m. loose fibers began to
17 escape into the ambient air outside the plant. The line was ordered
18 shut down, a process which takes about 90 minutes. Sweepers were
19 directed by appellant to clean up fibers which had fallen on the
20 nearby property of others.

21 Appellant spent about \$1,500.00 improving seals on the older
22 conveyor belt and, subsequently, spent about \$14,000.00 in a complete
23 modernization of that conveyor line.

24 Appellant did not report the breakdown of February 17, 1973 to
25 respondent.

26 II.

27 At about 4:30 p.m. on February 17, 1973, an inspector on respondent's
FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 staff, responding to a complaint, found large amounts of fibrous batting
2 material on the property of Hylebos Boat Haven and Reichhold Chemical
3 Company, both located near appellant's plant. The inspector traced the
4 dime-shaped fibers, which still were falling, through vents on the
5 roof of appellant's plant.

6 The inspector served on appellant Notice of Violation Number 7242,
7 citing Section 9.04 of respondent's Regulation 1. Subsequently, and
8 in connection therewith, respondent served appellant with Notice of
9 Civil Penalty Number 705 in the maximum allowable amount of \$250.00.
10 That penalty is the subject of this appeal.

11 III.

12 Section 9.04 of respondent's Regulation 1 makes it unlawful to
13 cause or allow particulant matter to be deposited on the real property
14 of others. Section 9.16 of respondent's Regulation 1 provides that
15 incidents caused by unavoidable breakdown of equipment and which
16 exceed the emission standards of Regulation 1 shall not be deemed
17 violations if they are immediately reported to respondent.

18 From these Findings the Pollution Control Hearings Board comes
19 to these

20 CONCLUSIONS

21 I.

22 Appellant was in violation of Section 9.04 of respondent's
23 Regulation 1 as cited in Notice of Violation Number 7242 and did not
24 avail itself of the mitigating provisions of Section 9.16 of Regulation
25 1.

26 II.

27 The penalty cited in Notice of Civil Penalty Number 705 is

1 reasonable.

2 III.

3 However, appellant has spent a considerable sum of money to
4 modernize its old conveyor line and to minimize the likelihood of
5 particulant emissions from it.

6 Therefore, the Pollution Control Hearings Board issues this

7 ORDER

8 The appeal is denied but Notice of Civil Penalty Number 705, in
9 the amount of \$250.00, is suspended pending no unexcused particulant
10 emission violations caused by the renovated conveyor line for a period
11 of six months from the date this order becomes final.

12 DONE at Lacey, Washington this 28th day of June, 1973.

13 POLLUTION CONTROL HEARINGS BOARD

14 Walt Woodward
15 WALT WOODWARD, Chairman

16 W. A. Gissberg
17 W. A. GISSBERG, Member

18 James T. Sheehy
19 JAMES T. SHEEHY, Member

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26 FINDINGS OF FACT,
CONCLUSIONS AND ORDER